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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,115	06/14/2001	Takamasa Suzuki	209519US2	6648
22850	7590	12/17/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			HABTE, ZEWDU	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/880,115	<b>Applicant(s)</b> SUZUKI ET AL.	
	<b>Examiner</b> Zewdu Habte	<b>Art Unit</b> 2661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,8,9 and 11 is/are rejected.
- 7) ☐ Claim(s) 3,5-7,10 and 12-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 8, 9 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Izumi (US 6577641).

As to claim 1 Izumi discloses a dynamic bandwidth assignment system (Fig. 5 @ 10, communication unit) including a network unit (Fig. 5 @ 13, control unit) for carrying out cell slot assignment (col. 6, lines 18-25, received information processing section), and a network termination (Fig. 5 @ 12, receiving unit) for transmitting cells to the network unit by means of cell slots assigned by the network unit (col. 6, lines 21-22, which receives incoming information), said network unit comprising: a detecting section (Fig. 5 @ 15, allocation means) for detecting a number of valid cells said network unit receives from said network termination (col. 6, lines 26-29, the time slots are allocated depending on the amount of information to be process); a decision section (Fig. 1, col. 6, lines 29-31, the control unit includes a means for determining the amount...) for outputting a decision result in accordance with the number of valid cells (col. 6, lines 29-31, a means for determining the amount of information to be transmitted); and a cell slot

assignment section (Fig. 1 @ 15, this section also processes by allocation means) for controlling the cell slot assignment to the network termination in response to the decision result of said decision section (col. 6, lines 32-38, the allocation means 15 of the control unit 13 allocates the time slots and provides a transmission means 14).

As to claim 2 Izumi discloses a decision section (Fig. 1, col. 6, lines 29-31, the control unit includes a means for determining the amount...) supplies its decision result to said cell slot assignment section (Fig. 5 @ 15, allocation means) when a number of consecutive valid cells (Fig. 1, frame F7) said network unit (Fig. 5 @ 13, control unit) receives from said network termination (Fig. 5 @ 12, receiving unit) exceeds a first predetermined threshold value, and wherein said cell slot assignment section (Fig. 5 @ 15, allocation means) increases the number of the cell slots to be assigned to said network termination (Fig. 5 @ 12, receiving unit) in response to the decision result (col. 4, lines 19-23, the threshold for a predetermined time frame holds eight time slots or depend upon the case it is used; col. 5, lines 10-12, additional time slots added to the frame depending on the amount of information to be transmitted).

As to claim 4 Izumi discloses a decision section (Fig. 1, col. 6, lines 29-31, the control unit includes a means for determining the amount...) supplies its decision result to said cell slot assignment section (Fig. 5 @ 15, allocation means) when a number of valid cells said network unit (Fig. 5 @ 13, control unit) receives from said network termination (Fig. 5 @ 12, receiving unit) in a decision period exceeds a first predetermined threshold value, and wherein said cell slot assignment section (Fig. 5 @ 15, allocation means) increases a number of the cell slots to be assigned to said

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network termination (Fig. 5 @ 12, receiving unit) in response to the decision result (col. 4, lines 19-23, the threshold for a predetermined time frame holds eight time slots or depends upon the case in which it is used; col. 5, lines 10-12, additional time slots added to the frame, depending on the amount of information to be transmitted).

As to claim 8 Izumi discloses a dynamic bandwidth assignment method (Fig. 5 @ 10, communication unit) in a network unit (Fig. 5 @ 13, control unit) comprising the steps of: producing a decision result in accordance with a number of valid cells said network unit receives from a network termination (col. 6, lines 32-38, the control unit 13 determines the amount of information to be transfer); and controlling cell slot assignment to the network termination in response to the decision result (col. 6, lines 32-38, the allocation means 15 of the control unit 13 allocates the time slots and provides a transmission means 14).

As to claim 9 Izumi discloses a number of consecutive valid cells (Fig. 1, frame F7) said network unit (Fig. 5 @ 13, control unit) receives from said network termination (Fig. 5 @ 12, receiving unit) exceeds a first predetermined threshold value, the step of controlling cell slot assignment increases the number of the cell slots to be assigned to said network termination in response to the decision result (col. 4, lines 19-23, the threshold for a predetermined time frame holds eight time slots or depends upon the case in which it is used; col. 5, lines 10-12; additional time slots added to the frame, depending on the amount of information to be transmitted).

As to claim 11 Izumi discloses a number of the valid cells said network unit (Fig. 5 @ 13, control unit) receives from said network termination (Fig. 5 @ 12, receiving unit)

exceeds a first predetermined threshold value, the step of controlling cell slot assignment increases the number of the cell slots to be assigned to said network termination in response to the decision result (col. 4, lines 19-23, the threshold for a predetermined time frame holds eight time slots or depends upon the case in which it is used; col. 5, lines 10-12,; additional time slots are added to the frame depending on the amount of information to be transmitted).

***Allowable Subject Matter***

Claims 3, 5-7, 10 and 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zewdu Habte whose telephone number is 571-272-3115. The examiner can normally be reached on 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on 571-272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Zewdu Habte (Zed)  
December 13, 2004

A handwritten signature in black ink, appearing to read 'KV', is written over a horizontal line.

**KENNETH VANDERPUYE  
PRIMARY EXAMINER**